

SERVICE DATE - APRIL 16, 1997

SURFACE TRANSPORTATION BOARD¹

DECISION

No. 41665

MAKITA U.S.A., INC.--PETITION FOR DECLARATORY ORDER--
CERTAIN RATES AND PRACTICES OF AMERICAN FREIGHT SYSTEM, INC.

Decided: April 11, 1997

This proceeding arises out of the efforts of American Freight System, Inc. (respondent) to collect undercharges on certain shipments from shipper, Makita U.S.A., Inc. (petitioner). The matter is before the Board on referral from the United States Bankruptcy Court for the District of Kansas, in *American Freight System, Inc. v. Makita U.S.A., Inc.*, Case No. 88-41050-11, Adv. No. 90-8229.

By decision December 6, 1995, the ICC established a procedural schedule in this proceeding. Petitioner filed its opening statement was due on September 16, 1996. However, Board records indicate that respondent has not filed its reply statement. Therefore, respondent is directed to show cause within 20 days of service of this decision why this proceeding should not be dismissed.

It is ordered:

1. Petitioner is directed to show cause within 20 days of service of this decision why this proceeding should not be dismissed.
2. This decision is effective on the service date.
3. A copy of this decision will be mailed to:

The Honorable James A. Pusateri
United States Bankruptcy Court
for the District of Kansas
Frank Carlson Federal Building and
U.S. Courthouse
444 S.E. Quincy Street, Room 215
Topeka, KS 66683

Re: Adv. No. 90-7655

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams
Secretary

¹ On December 29, 1995, the President signed the ICC Termination Act of 1995, Pub. L. No. 104-88, 109 Stat. 803 (ICC Termination Act or the Act). Effective January 1, 1996, the Act abolished the Interstate Commerce Commission (ICC) and transferred various ICC functions to a newly created Surface Transportation Board (Board), including the resolution of issues in motor carrier undercharge proceedings, 49 U.S.C. 13709-13711.